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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,395	09/25/2001	Harald Jakob	P 265258 000345 PV	5500

909 7590 09/20/2005

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EXAMINER
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LISH, PETER J

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/961,395

Applicant(s)

JAKOB ET AL.

Examiner

Peter J. Lish

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-9 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9, 11-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Response to Amendment***

The Declaration under 37 CFR 1.132 filed 7/11/05 is insufficient to overcome the rejection of claims 1-5, 7-9, and 11-19 based upon the rejections as set forth in the last Office action because: The range of  $Mg^{2+}$  concentration in the independent claims is between 50 and 2000 ppm, whereas the unexpected results are claimed to require a range of  $Mg^{2+}$  concentration between 125 and 1000 ppm. It is suggested that the range for which unexpected results are shown be incorporated into the independent claims.

Additionally, the table that is meant to demonstrate unexpected results uses different times to achieve the various TAM values. It is not known to what extent the time affects the measured TAM value, however, it is thought that time will affect the values to some degree. In order to more definitely show unexpected results, it is requested that the same times be applied in determining the TAM values of the samples.

Furthermore, the independent claims do not necessarily require the use of  $Mg^{2+}$  compounds. Rather, a list of complexing agents (ii) may be substituted for the magnesium compound. If patentability is to rely upon the unexpected results resulting from the synergistic effect of the magnesium compound and the waterglass, it is required that the independent claims be limited to the combined use of these additives.

Applicant's additional arguments have been fully considered but they are not persuasive. The applicants argue that the reference to Bewersdorf '896 teaches only the use of a waterglass coating and thus the waterglass is not evenly distributed in the sodium percarbonate. The examiners arguments of the previous office action are maintained; the waterglass is added during

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the production of the sodium percarbonate in the same manner as the applicants, therefore even distribution is achieved. The applicants additionally argue that the reference to Britchard teaches that the addition of condensed phosphates is required. However, the reference to Britchard is only relied upon insofar as it teaches the concentration ranges of various additives that are used in sodium percarbonate production, lending support for the obviousness of selecting additive concentrations within the claimed ranges in the process of Bewersdorf et al.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5, 7-9, and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bewersdorf et al. (US 5,560,896) in view of Bewersdorf et al. (USPN 5,714,201).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Claims 1-3, 5, 7-9, and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bewersdorf et al. ('896) in view of Brichard et al. (US 4,428,914) and further in view of Bewersdorf et al. (USPN 5,714,201).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bewersdorf et al. ('896) in view of Britchard et al. and further in view of Bewersdorf et al. ('201) or Bewersdorf et al. ('896) in view of Bewersdorf et al. ('201) as applied to claim 1 above, and further in view of Horne et al. (US 6,413,927).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Lish whose telephone number is 571-272-1354. The examiner can normally be reached on 9:00-6:00 Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

PL

  
STANLEY S. SILVERMAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700